

### **REMARKS**

The Office Action mailed January 9, 2009 has been reviewed and carefully considered. Entry of this Amendment and reconsideration of the above-identified application, as amended and in view of the following remarks, is respectfully requested

Claims 1-19 are pending and stand rejected.

No claims have been amended.

Claims 1, 2, 9, 10, 11, 18, and 19 stand rejected under 35 USC 103(a) as being unpatentable over Smith (USP no. 6,580,914) in view of Meade (USPPA 2003/0073412) and further in view of Kabala (USP no. 6,539, 393).

Applicant respectfully disagrees with and explicitly traverses the reason for rejecting the claims.

Smith discloses a system for providing location information of a handset from one network to another network or resource in response to the request for such information from the other network or resource. Smith illustrates in Figure 1 a situation wherein information is transferred from one network to another network through the handset and the process for transferring information from one network to another (see also Figure 6).

Meade discloses a system for controlling an appliance by a mobile computing device by determining an available content for the appliance, selecting the content used by the appliance and applying user preferences to the appliance. Meade is recited for teaching a TIVO system that is a recommending system known by its dynamic selection.

Kabala discloses a portable locator system for tracking movement of persons within a facility and listing information relating to visits by persons at different locations. Kabala disclose that a person wearing a badge having a unique identification is detected and transmitted to a transceiver that transfers this information to a central processor. The central processor time stamps the received messages and determines a time duration the person remains within a known detector range based on the time stamps. (see col. 6, lines 5-27). Kabala is cited by the Office Action for teaching the "determination of a longevity (e.g., duration of stay) of terminal within an area."

In rejecting the claims, the Office Action refers to Smith for teaching that a current location may be requested from a terminal and stored in the terminal and that the location may be provide to a consumer device, such as a TIVO (of Meade ) and that Kabala discloses determination of a longevity within an area.

However, applicant submits that neither Smith nor Meade discloses a timing feature, as acknowledged by the Office Action, and Kabala teaches a system wherein a central processor determines a duration (longevity) of terminal by time-stamping signals received from a device having a unique identification and determining a difference between a first received time-stamp and the latest received time-stamp of a received signal having the same unique identification.

However, performing the determination of a longevity value in the central processor is contrary to the claimed elements of "determining, by the terminal, a current location ... saving, in the terminal, an identifier of the determined location based on a longevity of said terminal ...." The determination of the longevity value by the terminal is explicitly taught with reference to Figure 1 (timer 116) and Figure 2, with reference to page 4, lines 14-22.

In order to establish a *prima facie* case of obviousness, three basic criteria must be met, 1. there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine the reference teachings, 2. there must be a reasonable expectation of success; and 3. the prior art reference must teach or suggest all the claim limitations.

In this case, a *prima facie* case of obviousness has not been made as each of the elements recited in independent claims 1 and 10 is not disclosed by the combination of Smith, Meade and Kabala.

Even if it could be said that the determination of a longevity value by the central processor is comparable to the subject matter claimed, Kabala fails to provide any teaching or suggestion of providing the longevity information to the uniquely identified badge (i.e. terminal). In fact, Kabala cannot provide the longevity information to the badge as Kabala discloses that the badge is an infrared transmitter and has no capability

of receiving information from the central processor.

Hence, the combination of Smith, Meade and Kabala fails to disclose the claim element "saving, in the terminal, an identifier to the determined location ... based on a longevity ...," as the badge of Kabala has not means for receiving or processing the longevity value.

For this reason, also, applicant submits the subject matter recited in the independent claims is not rendered obvious as the combined teachings of the cited references fails to disclose all the elements recited in the claims.

Applicant submits that the reasons for the rejection has been overcome and respectfully requests that the rejection be withdrawn and the independent claims allowed.

With regard to remaining claims, these claims ultimately depend from one of the independent claims and, hence, are allowable by virtue of their dependency upon an allowable base claim, with discussed the merits of the rejection.

Claims 3-8 and 12-17 stand rejected under 35 USC 103(a) as being unpatentable over Smith in view of Meade and Kabala and further in view of O'Neil (USPPA 2002/017027).

O'Neill discloses a system wherein a location of the terminal is periodically provided to a advertising server. The advertising server collects the periodically provided locations and matches the location with a merchant database to determine whether advertising information provided by the merchant should be provided to the terminal.

With regard to aforementioned claims, these claims ultimately depend from one of the independent claims and, hence, are allowable by virtue of their dependency upon an allowable base claim, without discussing the merits of the rejection.

For all the foregoing reasons, it is respectfully submitted that all the claims are in allowable form and the issuance of a Notice of Allowance is respectfully requested.

In the event the Examiner deems personal contact desirable in the disposition of this case, the Examiner is invited to call the undersigned attorney at the telephone given below.

No fees are believed necessary for the timely filing of this paper.

Respectfully submitted,

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